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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Second performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2016–2017

Report of the Secretary-General*

Summary

The present report provides an estimate of the anticipated final level of expenditure for the International Tribunal for the Former Yugoslavia for the biennium 2016–2017, taking into account changes in parameters for inflation and exchange rates compared with the assumptions made in the first performance report for the biennium (A/71/578), which was reviewed by the General Assembly at its seventy-first session and which formed the basis for the revised appropriation and estimate of income for the biennium.

The anticipated final level of expenditure for the International Tribunal for the Former Yugoslavia for the biennium 2016–2017 amounts to $105,779,400, reflecting an increase of $7,715,400. The increase is the result of increases related to post and non-post resources. The anticipated final level of income for the biennium 2016–2017 amounts to $12,591,500, reflecting an increase of $1,445,400. Consequently, the combined effect of the anticipated final level of expenditure and income for the biennium 2016–2017 amounts to an increase of $6,270,000.

* The date of submission takes into account the requirement to present the latest actual expenditure data to allow for better projections.

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I. Introduction

1. The second performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2016–2017 provides an estimate of the anticipated final level of expenditure and income for the biennium, taking into account changes in parameters for inflation and exchange rates compared with the assumptions made in the first performance report for the biennium (A/71/578), which was reviewed by the General Assembly at its seventy-first session and which formed the basis for the revised appropriation and estimates of income for the biennium. The estimate takes into account actual expenditure for the first 22 months of the biennium and projected requirements for the last 2 months, and uses the approved recosting methodology.

2. The activities of the Tribunal are predominantly trial-based (see annex II), and most of the requirements are therefore linked to the pace of trial activities.

II. Explanation of the changes in expenditure requirements

3. The combined effect of the anticipated final level of expenditure and income represents an increase of $6,270,000 compared with the revised appropriation and income for the biennium 2016–2017 approved by the General Assembly in its resolution 71/268, as shown in tables 1 and 2.

Table 1
Projected changes and proposed final appropriation by component, 2016–2017
(Thousands of United States dollars)

		Projected changes				
Component	*Revised appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed final appropriation*
Expenditure						
Chambers	7 510.2	(25.7)	2.9	–	(22.8)	7 487.4
Office of the Prosecutor	16 143.4	(38.9)	(12.9)	3 413.9	3 362.1	19 505.5
Registry	74 410.4	(262.9)	(188.7)	4 827.7	4 376.1	78 786.5
Total expenditure (gross)	**98 064.0**	**(327.5)**	**(198.7)**	**8 241.6**	**7 715.4**	**105 779.4**
Income						
Staff assessment	11 146.1	(25.7)	(61.2)	1 442.3	1 355.4	12 501.5
Other income	180.0	–	–	(90.0)	90.0	90.0
Total requirements (net)	**86 737.9**	**(301.8)**	**(137.5)**	**6 889.3**	**6 270.0**	**93 187.9**

Table 2
Projected changes and proposed final appropriation by object of expenditure, 2016–2017
(Thousands of United States dollars)

		Projected changes				
Object of expenditure	*Revised appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed final appropriation*
Expenditure						
Posts	40 664.4	(98.7)	(149.0)	3 508.1	3 260.4	43 924.8
Other staff costs	21 903.7	(111.8)	5.3	4 768.8	4 662.3	26 566.0
Non-staff compensation	7 365.0	(25.6)	2.7	–	(22.9)	7 342.1
Consultants	95.4	(0.4)	–	9.5	9.1	104.5
Experts	41.2	(0.3)	–	–	(0.3)	40.9
Travel of staff	1 244.6	–	2.4	(393.6)	(391.2)	853.4
Contractual services	7 954.9	(24.9)	(1.4)	(1 552.9)	(1 579.2)	6 375.7
General operating expenses	7 043.0	(38.0)	2.3	492.0	456.3	7 499.3
Hospitality	11.1	–	–	–	–	11.1
Supplies and materials	222.8	(1.3)	0.4	(32.6)	(33.5)	189.3
Furniture and equipment	327.0	(0.4)	(0.2)	–	(0.6)	326.4
Improvement of premises	32.4	(0.4)	–	–	(0.4)	32.0
Grants and contributions	12.4	–	–	–	–	12.4
Staff assessment	11 146.1	(25.7)	(61.2)	1 442.3	1 355.4	12 501.5
Total expenditure (gross)	**98 064.0**	**(327.5)**	**(198.7)**	**8 241.6**	**7 715.4**	**105 779.4**
Income						
Staff assessment	11 146.1	(25.7)	(61.2)	1 442.3	1 355.4	12 501.5
Other	180.0	–	–	(90.0)	90.0	90.0
Total requirements (net)	**86 737.9**	**(301.8)**	**(137.5)**	**6 889.3**	**6 270.0**	**93 187.9**

A. Variations in budgetary assumptions

Rates of exchange and inflation (decrease: $526,200)

4. In terms of inflation and exchange rates, the adjustments in resources for 2017 are based on actual experience in 2017 as compared with the rates of exchange and inflation approved in the revised appropriation for 2016–2017. For 2016, the adjustments are based on the actual experience for 2016 as compared with the rates of exchange and inflation approved in the revised appropriation for 2016–2017, which include projections for the last two months of 2016.

5. In estimating the effect of exchange rate fluctuations experienced in 2017, the actual rates realized from January to November were used, with the November 2017 rate assumed for December 2017. Details of the assumptions are provided in annex I.

6. Accordingly, the decrease in requirements in this category is attributable to the weakening of the euro against the dollar ($327,500) and a decrease in the level of inflation ($198,700).

7. With regard to inflation, adjustments are based on the latest information available (November 2017) on consumer price indices as well as adjustments

resulting from differences in actual post adjustment indices for staff in the Professional and higher categories and salary scales for staff in the General Service and related categories.

B. Post incumbency and other changes

8. Changes reflected under "post incumbency and other changes" are explained below.

Chambers

Table 3
Projected changes and proposed final appropriation by object of expenditure, 2016–2017
(Thousands of United States dollars)

		Projected changes				
Object of expenditure	*Revised appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed final appropriation*
Non-staff compensation	7 365.0	(25.6)	2.7	–	(22.9)	7 342.1
Consultants	19.0	(0.1)	–	–	(0.1)	18.9
Travel of staff	126.2	–	0.2	–	0.2	126.4
Total requirements	**7 510.2**	**(25.7)**	**2.9**	**–**	**(22.8)**	**7 487.4**

9. There are no changes under "proposed post incumbency and other changes" for the Chambers.

Office of the Prosecutor

Table 4
Projected changes and proposed final appropriation by object of expenditure, 2016–2017
(Thousands of United States dollars)

		Projected changes				
Object of expenditure	*Revised appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed final appropriation*
Expenditure						
Posts	7 689.1	(5.9)	(9.2)	672.2	657.1	8 346.2
Other staff costs	5 987.7	(29.6)	1.2	2 268.1	2 239.7	8 227.4
Consultants	31.5	–	–	–	–	31.5
Travel of staff	200.9	–	0.4	–	0.4	201.3
Contractual services	22.9	(0.2)	–	–	(0.2)	22.7
Staff assessment	2 211.3	(3.2)	(5.3)	473.6	465.1	2 676.4
Total expenditure (gross)	**16 143.4**	**(38.9)**	**(12.9)**	**3 413.9**	**3 362.1**	**19 505.5**
Income						
Staff assessment	2 211.3	(3.2)	(5.3)	473.6	465.1	2 676.4
Total requirements (net)	**13 932.1**	**(35.7)**	**(7.6)**	**2 940.3**	**2 897.0**	**16 829.1**

Posts (increase: $672,200)

10. The increase reflects the net effect of additional requirements under salaries and common staff costs. The additional requirements under salaries are due to lower vacancy rates than approved. The budgetary assumptions included a vacancy rate of 6.9 per cent for the Professional and higher categories and 0.7 per cent for the General Service and related categories. In 2016, the average vacancy rates were 4.5 per cent for Professional posts and 0.4 per cent for General Service posts. For the period from January to September 2017, the average vacancy rates were zero per cent for both Professional and General Service posts. The increase under common staff costs reflects the planned closure of the Tribunal in December 2017 and relate to repatriation grant and travel, annual leave commutation, termination indemnity and other end-of-service/separation-related adjustments and costs.

Other staff costs (increase: $2,268,100)

11. The increase under other staff costs relates to separation payments, which includes repatriation grant and travel, annual leave commutation, termination indemnity and other separation-related adjustments and costs related to positions funded under general temporary assistance. For the biennium 2016–2017, general temporary assistance positions approved in lieu of some of the temporary posts abolished during the bienniums 2014–2015 and 2016–2017 that continued in 2016–2017 were phased out.

Staff assessment (increase: $473,600)

12. The increase reflects the increase under posts and other staff costs as mentioned above, which will be offset by a corresponding amount under income from staff assessment.

Registry

Table 5

Projected changes and proposed final appropriation by object of expenditure, 2016–2017

(Thousands of United States dollars)

		Projected changes				
Object of expenditure	*Revised appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed final appropriation*
Expenditure						
Posts	32 975.3	(92.8)	(139.8)	2 835.9	2 603.3	35 578.6
Other staff costs	15 916.0	(82.2)	4.1	2 500.7	2 422.6	18 338.6
Consultants	44.9	(0.3)	–	9.5	9.2	54.1
Experts	41.2	(0.3)	–	–	(0.3)	40.9
Travel of staff	917.5	–	1.8	(393.6)	(391.8)	525.7
Contractual services	7 932.0	(24.7)	(1.4)	(1 552.9)	(1 579.0)	6 353.0
General operating expenses	7 043.0	(38.0)	2.3	492.0	456.3	7 499.3
Hospitality	11.1	–	–	–	–	11.1
Supplies and materials	222.8	(1.3)	0.4	(32.6)	(33.5)	189.3
Furniture and equipment	327.0	(0.4)	(0.2)	–	(0.6)	326.4
Improvement of premises	32.4	(0.4)	–	–	(0.4)	32.0

Object of expenditure	*Revised appropriation*	*Projected changes*				*Proposed final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Grants and contributions	12.4	–	–	–	–	12.4
Staff assessment	8 934.8	(22.5)	(55.9)	968.7	890.3	9 825.1
Total expenditure (gross)	**74 410.4**	**(262.9)**	**(188.7)**	**4 827.7**	**4 376.1**	**78 786.5**
Income						
Staff assessment	8 934.8	(22.5)	(55.9)	968.7	890.3	9 825.1
Other income	180.0	–	–	(90.0)	90.0	90.0
Total requirements (net)	**65 295.6**	**(240.4)**	**(132.8)**	**3 949.0**	**3 395.8**	**68 871.4**

Posts (increase: $2,835,900)

13. The increase reflects the net effect of additional requirements under salaries and common staff costs resulting from vacancy rates being lower than those approved. The budgetary assumptions included vacancy rates of 6.9 per cent for the Professional and higher categories and 0.7 per cent for the General Service and related categories. For Professional posts, the average vacancy rate was 6.1 per cent for 2016 and 2.4 per cent for the period from January to September 2017. This is partially offset by the higher-than-budgeted vacancy rate of 2.8 per cent for 2016 and 2.6 per cent for January–September 2017 for General Service posts. The increase under common staff costs reflects the planned closure of the Tribunal in December 2017 and relate to repatriation grant and travel, annual leave commutation, termination indemnity and other separation-related adjustments and costs.

Other staff costs (increase: $2,500,700)

14. The increase under other staff costs is due to separation payments, which includes repatriation grant and travel, annual leave commutation, termination indemnity and other separation-related adjustments and costs related to positions funded under general temporary assistance. For the biennium 2016–2017, general temporary assistance positions approved in lieu of some of the temporary posts abolished during the bienniums 2014–2015 and 2016–2017 that continued in 2016–2017 were phased out.

Consultants (increase: $9,500)

15. The increase relates to an evaluation required by the Security Council in its resolution 2256 (2015) and the General Assembly in its resolution 70/227 with respect to the methods and work of the Tribunal in the context of the implementation of the completion strategy pursuant to Council resolution 1966 (2010). Resources under this line were utilized by the Office of Internal Oversight Services to engage the services of a senior-level legal expert to assist in conducting the evaluation in 2016.

Travel of staff (decrease: $393,600)

16. The decrease is the result of fewer witnesses actually being called to testify during the biennium in the Trial Chambers than the number anticipated.

Contractual services (decrease: $1,552,900)

17. The decrease is due to reduced requirements for: (a) court reporting services in English and French; (b) defence counsel, owing to lower-than-anticipated courtroom utilization and hearing time as a result of a change in the completion date of the active phase of the Mladić trial, which was completed four months earlier than projected, the premature ending of the Hadžić case following the death of the accused and a reduction in the number of witnesses called to testify during the biennium; and (c) the higher-than-projected use of in-house capacity for translation instead of using contractual translators. The decrease is partially offset by actual higher costs for the 23 prison cells at the Scheveningen penitentiary during the biennium.

General operating expenses (increase: $492,000)

18. The increase is due mainly to the higher actual rental costs in the headquarters building in The Hague, partially offset by reduced requirements for electricity as a result of consumption-reduction initiatives, such as the use of low-energy bulbs and motion-sensor switches.

Supplies and materials (decrease: $32,600)

19. The decrease is due mainly to reduced requirements for public information supplies, including the reduction of the number of tapes used for court proceedings as a consequence of a lower level of courtroom utilization.

Staff assessment (increase: $968,700)

20. The increase reflects the increased requirements related to posts and other staff costs, as mentioned above, which will be offset by a corresponding amount under income from staff assessment.

III. Action to be taken by the General Assembly

21. **The General Assembly is requested to take note of the present report and to approve the final appropriation for the biennium 2016–2017 of $105,779,400 (gross), $93,187,900 (net) to the Special Account for the International Tribunal for the Former Yugoslavia.**

Annex I

Budgetary assumptions

The following parameters were used in formulating the present proposed estimates for the final appropriation:

	Estimates reflected in the first performance report[a]		*Proposed estimates for the final appropriation*	
Budget parameters	*2016*	*2017*	*2016*	*2017*
Rate of exchange[b]	0.906	0.881	0.905	0.893
Rate of inflation (percentage)	0.2	1.0	0.1	1.3
Post adjustment multiplier at The Hague (percentage)	32.61	34.00	32.62	34.03

[a] A/71/578.

[b] The euro to the United States dollar.

Annex II

Trial activity during the biennium 2016–2017

1. The core work of the International Tribunal for the Former Yugoslavia has been the completion of all trials and appeals. At the time of the preparation of the present report, the Tribunal had rendered during the biennium two trial judgments and one appeal judgment, with one more trial judgment scheduled for 22 November 2017 and one more appeal judgment scheduled for 29 November 2017, before the conclusion of the Tribunal's mandate on 31 December 2017.

Trial Chamber I

2. In the **Mladić case**, the accused Ratko Mladić is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Alphons Orie (presiding), Christoph Flügge and Bakone Justice Moloto. The trial commenced on 16 May 2012, and the evidentiary phase of the case was concluded in August 2016, with the parties presenting their closing arguments in December 2016. The total number of witnesses in the Mladić case is 591, with 377 having appeared before the Trial Chamber, and 10,038 exhibits have been admitted into evidence. Despite significant challenges in 2017, with a large number of staff members leaving the Tribunal for more secure employment elsewhere, the Trial Chamber will deliver the judgment in this case on 22 November 2017, as announced in a scheduling order on 18 October 2017.

3. In the **Jojić and Radeta** contempt case, the accused Petar Jojić and Vjerica Radeta are charged with three counts of contempt of court in relation to alleged witness intimidation in the former trial case of Prosecutor v. Vojislav Šešelj. Proceedings against another accused, Jovo Ostojić, were terminated on 17 August 2017 following Ostojić's death. The proceedings in this contempt case commenced on 30 October 2012 with the issuance of an order in lieu of indictment, but remained confidential until 1 December 2015. Arrest warrants have been pending execution in Serbia since 19 January 2015 — now almost three years ago — and yet Serbia has taken no action. On 5 October 2016, international arrest warrants for the accused were issued confidentially by the Trial Chamber and were released in public or public redacted form on 29 November 2016. Subsequently, INTERPOL issued Red Notices seeking the location and arrest of the accused, effective 16 March 2017.

Trial Chamber II

4. In the **Hadžić case**, the accused Goran Hadžić was charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia and Serbia between 25 June 1991 and December 1993. The Trial Chamber was composed of Judges Guy Delvoie (presiding), Burton Hall and Antoine Kesia-Mbe Mindua. The trial commenced on 16 October 2012. However, owing to serious problems with Mr. Hadžić's health, the trial was interrupted and no hearings in this case were held after 20 October 2014. On 26 October 2015, the Trial Chamber ordered a stay of proceeding for an initial period of three months owing to the ill health of the accused. On 24 March 2016, the Trial Chamber found the accused unfit to stand trial and stayed the proceedings indefinitely. Following the death of Mr. Hadžić on 12 July 2016, the Trial Chamber terminated the proceedings in this case on 22 July 2016.

Trial Chamber III

5. In the **Karadžić case**, the accused was charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. On 24 March 2016, the Trial Chamber issued the trial judgment, finding the accused not guilty of one count of genocide pertaining to seven municipalities in Bosnia and Herzegovina. The Trial Chamber found the accused guilty of the remaining 10 counts, namely genocide in Srebrenica, persecution, extermination, murder, deportation and forcible transfer, all crimes against humanity, as well as murder, terror, unlawful attacks on civilians and hostage-taking, all violations of the laws or customs of war. The Trial Chamber sentenced the accused to a single sentence of 40 years of imprisonment.

6. In the **Šešelj case**, the trial judgment was rendered on 31 March 2016. The accused had faced nine counts: three for crimes against humanity (persecution, deportation and inhumane acts of forcible transfer) and six for war crimes (murder, torture and cruel treatment, wanton destruction, destruction or wilful damage done to institutions dedicated to religion or education, plunder of public or private property). He was accused of having directly committed, incited or aided and abetted those crimes committed by Serbian forces during the period from August 1991 to September 1993 and to have been part of their commission through his participation in a joint criminal enterprise. Vojislav Šešelj was acquitted of all charges, with a majority decision on eight counts and a unanimous decision on one count.

Appeals Chamber

7. In the **Stanišić and Župljanin case**, the appeal judgment was pronounced on 30 June 2016. The Appeals Chamber, composed of Judges Carmel Agius (presiding), Liu Daqun, Christoph Flügge, Fausto Pocar and Koffi Kumelio A. Afande, dismissed the parties' respective appeals and affirmed Mićo Stanišić's and Stojan Župljanin's sentences of 22 years of imprisonment.

8. In the **Prlić et al. case**, by order of 5 October 2017, the pronouncement of the judgment has been scheduled for 29 November 2017. The Appeals Chamber is composed of Judges Carmel Agius (presiding), Liu Daqun, Fausto Pocar, Theodor Meron and Bakone Justice Moloto. As previously reported, this is the most voluminous appellate case in the history of the Tribunal, with seven appeals (one by each of the six defendants and one by the Office of the Prosecutor), 146 grounds of appeal and 12,196 pages of appellate submissions dealing with a trial judgment more than 2,000 pages in length. Since January 2017, more highly qualified staff members have left the Tribunal to take up secure or longer-term opportunities with other employers, including eight legal officers assigned to assist the judges on the Prlić et al. case. The departure of core staff members who are familiar with this voluminous and complex appeal case has increased the already immense workload of the remaining staff. As the required case knowledge and appeal experience of the separated staff could not be replaced by new staff at this late stage of the judgment-drafting process, the reassignment of tasks and the dedication of the staff members who have committed to remaining until the very end are ensuring the necessary stability of the case until its completion by 29 November 2017.

Interlocutory appeals

9. The Appeals Chamber issued several decisions and orders in respect of interlocutory appeals in 2016 and 2017. Some of these were issued confidentially and therefore cannot be discussed here.

10. In the **Hadžić case**, the Appeals Chamber granted in part on 4 March 2016 the Office of the Prosecutor's appeal of the Trial Chamber's decision of 26 October 2015.

11. In the **Mladić case**, the Appeals Chamber issued on 27 February 2017 a public decision dismissing an interlocutory appeal by Ratko Mladić against a decision of the Trial Chamber, which had rejected Mladić's allegations that his rights to a fair trial and the presumption of innocence had been compromised. The Appeals Chamber found that Mladić had failed in multiple respects to demonstrate that the Trial Chamber had erred in its decision. On 30 June 2017, the Appeals Chamber issued a public redacted version of a decision on Ratko Mladić's interlocutory appeal against the Trial Chamber's decision on an urgent defence motion for provisional release. The Appeals Chamber found that Mladić had failed to demonstrate a discernable error of the Trial Chamber in its denial of provisional release. In connection with this decision, the Appeals Chamber, on 24 May 2017, issued an order for an expedited response and reply to the motion.

Pre-appeal decisions and orders

12. A total of 42 pre-appeal decisions and orders were issued during the reporting period.